

Before the
Federal Communications Commission
Washington, D.C. 20554

FOG MAIL ROOM
JUL 21 3 52 PM '94

MM Docket No. 94-77

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Shasta Lake City, California)

RM-8470

NOTICE OF PROPOSED RULE MAKING

Adopted: June 28, 1994; Released: July 14, 1994

Comment Date: September 7, 1994
Reply Comment Date: September 22, 1994

By the Acting Chief, Allocations Branch:

1. The Commission considers herein a petition for rule making filed by Mark C. Allen ("petitioner") requesting the allotment of FM Channel 276A to Shasta Lake City, California, as that community's first local aural transmission service. Petitioner stated his intention to apply for Channel 276A if it is allotted to Shasta Lake City, as requested.¹

2. As Shasta Lake City is not listed in the 1990 U.S. Census, petitioner provided documentation to evidence that in July 1993, the communities of Central Valley, Summit City, Project City, and Pine Grove were dissolved and incorporated into the newly created community of Shasta Lake City. To support its claim, petitioner provided documentation consisting of a certified statement from Richard W. Curry, Executive Officer of the Shasta County Local Agency Formation Commission, verifying Shasta Lake City's incorporation, and included a copy of Resolution No. 93-02 of the Shasta County Local Agency Formation Commission regarding the terms and conditions related thereto. The Resolution also included a map of Shasta Lake City delineating the official boundaries of the newly created community.

3. We believe the public interest would be served by proposing the allotment of Channel 276A to Shasta Lake City since it could provide a first local aural transmission service to the community.²

Technical Statement

4. Channel 276A can be allotted to Shasta Lake City, California, in conformity with the minimum distance separation requirements of Section 73.207(b)(1) of the Commission's Rules, provided the transmitter is located at least 5.5 kilometers (3.4 miles) north of the community at coordinates North Latitude 40-43-58 and West Longitude 122-21-59.

5. Accordingly, we seek comments on the proposed amendment to the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, with respect to the communities listed below, as follows:

City	Channel No.	
	Present	Proposed
Shasta Lake City, California	--	257C3, ³ 276A

6. IT IS ORDERED, That the Secretary of the Commission shall send a copy of this Order by Certified Mail, Return Receipt Requested, to the permittee of Station KNNN(FM), as follows: Quality Broadcasters of California, L.P., 1326 Market Street, Redding, CA 96001.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

8. Interested parties may file comments on or before September 7, 1994, and reply comments on or before September 22, 1994, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, as follows:

Mark C. Allen
3745 McHale Way
Redding, CA 96001

¹ Although the petitioner's request was signed, he failed to include an affidavit verifying that the statements contained in the petition are accurate to the best of his knowledge. Section 1.52 of the Commission's Rules requires that the original of any document filed with the Commission by a party not represented by counsel be signed and verified by the party and his/her address stated. In the absence of such verification, the petition may be dismissed. Section 1.401(b) of the Commission's Rules concerning rule making proceedings places petitioners on notice that their proposal must conform with the requirements of Section 1.52 regarding subscription and verification. See also *Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes*, 5 FCC Rcd 3911, 3919 n.41 (1990). The petitioner is requested to rectify

this omission in his comments.

² A construction permit has been issued to Quality Broadcasters of California, L.P. ("QBC") for Station KNNN(FM), Channel 257C3, Central Valley, California (File No. BPH-920520ID). In view of Central Valley's dissolution and incorporation into Shasta Lake City, the former community no longer exists as a separate entity. Therefore, Section 73.202(b) of the Commission's Rules, the FM Table of Allotments, must be editorially amended to reflect the change. Accordingly, we will make the change in the FM Table of Allotments at the conclusion of this proceeding to reflect that Channel 257C3 is allotted at Shasta Lake City in lieu of Central Valley. We will serve QBC with a copy of this Notice.

³ See footnote 2, *supra*.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

10. For further information concerning this proceeding, contact Nancy Joyner, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no oral presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. Oral presentation is not prohibited if specifically requested by the staff for the clarification of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Acting Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.